

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LEXINGTON INSURANCE COMPANY and
TRAVELERS PROPERTY CASUALTY COMPANY
OF AMERICA as subrogees of Jones Lang LaSalle
Management Services, Inc.

THIRD-PARTY SUMMONS

Plaintiffs,

-against-

Docket No.: 07 CIV 9737

LOCHINVAR CORPORATION, AMBASSADOR
CONSTRUCTION CO., INC., DiGIACOMO & SON,
INC., and MANHATTAN MECHANICAL SERVICE,
INC.,

Defendants.

-----X
LOCHINVAR CORPORATION,

Third-party Plaintiff,

-against-

SOUTH ERIE PRODUCTION COMPANY, d/b/a
SEPCO ERIE,

Third-Party Defendant.

-----X
TO THE ABOVE NAMED THIRD-PARTY DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Third-party Complaint in this action and to serve a copy of your Answer, or, if the Third-party Complaint is not served with the Summons, to serve a Notice of Appearance, on the Third-Party Plaintiffs' Attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or

answer, judgment will be taken against you by default for the relief demanded in the

Third-party Complaint.

Dated: May 29, 2008
White Plains, N.Y.

Yours, etc.,

RENDE, RYAN & DOWNES, LLP.

By: Roland Koke
ROLAND T. KOKE (RK1068)
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TO: ROBINSON & COLE, LLP
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Attention: Michael B. Golden, Esq.
212-451-2900

BRODY, BENARD & BRANCH
Attorneys for Defendant
AMBASSADOR CONSTRUCTION CO., INC.
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New York, New York 10016
Attention: Matthew Rice, Esq.

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JACOBSON, P.C.
Attorneys for Defendant
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One Battery Park Plaza, 4th Floor
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Attention: Michael E. Gorelick, Esq.

FRENCH & RAFTER, LLP
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SOUTH ERIE PRODUCTION COMPANY
d/b/a SEPCO ERIE
1221 Robinson Road
Erie, PA 16509
Attention: Kerry Lewis

HAMILL, O'BRIEN, CROITIER,
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516-745-0707

Sentry Insurance
PO Box 8032
Stevens Point, WI 54481
Attention: Shelly Turinski, Sr. Claims Representative
800-739-3344 x9540
715-346-9708

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LEXINGTON INSURANCE COMPANY and
TRAVELERS PROPERTY CASUALTY COMPANY
OF AMERICA as subrogees of Jones Lang LaSalle
Management Services, Inc.

**THIRD-PARTY
COMPLAINT**

Plaintiffs,

-against-

Docket No.: 07 CIV 9737

LOCHINVAR CORPORATION, AMBASSADOR
CONSTRUCTION CO., INC., DiGIACOMO & SON,
INC., and MANHATTAN MECHANICAL SERVICE,
INC.,

Defendants.

-----X
LOCHINVAR CORPORATION,

Third-party Plaintiff,

-against-

SOUTH ERIE PRODUCTION COMPANY, d/b/a
SEPCO ERIE

-----X
Third-party plaintiff, LOCHINVAR CORPORATION, by its attorneys, Rende, Ryan &
Downes, LLP, as and for a third-party Complaint against the above-named third-party defendant,
SOUTH ERIE PRODUCTION COMPANY, d/b/a SEPCO ERIE (hereinafter "SEPCo ERIE"),
allege upon information and belief:

AS AND FOR A FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, the third-party defendant, SEPCO ERIE,
was and still is a domestic corporation duly organized and existing under and by virtue of the
laws of the State of New York.

2. That at all times hereinafter mentioned, the third-party defendant, SEPCO ERIE, was and still is a Pennsylvania corporation authorized to do business in the State of New York and actually doing business within the State of New York.

3. That at all times hereinafter mentioned, the third-party defendant, SEPCO ERIE was and still is a partnership existing under and by virtue of the laws of the State of New York and having its business offices therein.

4. That at all times hereinafter mentioned, the third-party defendant, SEPCO ERIE was and still is a sole proprietorship duly authorized to do business in the State of New York.

5. That at all times hereinafter mentioned, the third-party defendant, SEPCO ERIE, was and still is licensed to do business within the State of New York.

6. That it is alleged in the plaintiff's Amended Complaint, a copy of which is annexed hereto and a part of hereof, that on the 26th day of October, 2005, the plaintiff JONES LANG LASALLE MANAGEMENT SERVICES was injured and damaged, allegedly as a result of a failed coupling at the premises located at the Citi Corp Building, 153 East 53rd Street, New York, New York.

7. Annexed hereto and made a part hereof is the Answer of the third-party plaintiffs as defendants to the Amended Complaint of the plaintiff.

8. At all times hereinafter mentioned the third-party defendant SEPCO ERIE by its agents, servants and/or employees manufactured said coupling for distribution by LOCHINVAR.

9. That in the event the defendant/third-party plaintiff LOCHINVAR is found liable to the plaintiff as alleged in the Complaint, then the same will be the result of the negligence in whole or in part of the third-party defendant SEPCO ERIE.

10. By reason of the foregoing, defendant/third-party plaintiff LOCHINVAR shall be entitled to judgment over in whole or in such percentage based upon the attributable fault of the third-party defendant.

11. That in the event the plaintiff sustained injury as claimed in the Complaint, then same will be the result of the negligence of the third-party defendant, its agents and servants in the maintenance of the premises.

AS AND FOR A SECOND CAUSE OF ACTION

12. Defendant/third-party plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs designated "1" through "11" insofar as said allegations are repeated, reiterated and realleged in paragraph "12" thereof.

13. As alleged in the Amended Complaint, the coupling eventually failed in that it separated completely from the pipes to which it had been attached, causing a major flood and resulting water damage.

14. In the event plaintiff sustained damage as alleged in the Amended Complaint, same will be the result of third-party defendant's manufacturing or design defect.

AS AND FOR A THIRD CAUSE OF ACTION

15. Defendant/third-party plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs designated "1" through "14" insofar as said allegations are repeated, reiterated and realleged in paragraph "15" thereof.

16. SEPCO ERIE placed the coupling in the stream of commerce to be sold for the purpose of connecting ferrous and non-ferrous piping.

17. As alleged in the Amended Complaint, the coupling was not suitable to be used in connection with an air conditioning cooling loop insofar as the stresses associated with such installation and the chemicals in the cooling water could cause the failure of the coupling.

18. As alleged in the Amended Complaint, SEPCO ERIE knew or should have known the foregoing and had a duty to warn that the coupling should not have been used in a cooling loop and failed to do so.

19. As alleged in the Amended Complaint, SEPCO ERIE's failure to warn was a proximate cause of the failure of the coupling.

AS AND FOR A FOURTH CAUSE OF ACTION

20. Defendant/third-party plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs designated "1" through "19" insofar as said allegations are repeated, reiterated and realleged in paragraph "20" thereof.

21. SEPCO ERIE sold the incident coupling pursuant to "Lochinvar Terms and Conditions." (Exhibit "C").

22. The Lochinvar Terms and Conditions requires SEPCO ERIE to indemnify, hold harmless and defend Lochinvar.

AS AND FOR A FIFTH CAUSE OF ACTION

23. Defendant/third-party plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs designated "1" through "22" insofar as said allegations are repeated, reiterated and realleged in paragraph "23" thereof.

24. The Lochinvar Terms & Conditions requires SEPCO ERIE to purchase insurance listing Lochinvar as an additional insured.

25. SEPCO ERIE did not obtain insurance coverage in favor of Lochinvar.

26. Lochinvar was not listed as an additional insured on SEPCO ERIE's insurance policy.

27. SEPCO ERIE breached its contract.

WHEREFORE, third-party plaintiff demands judgment over against third-party defendant including costs and attorneys fees.

Dated: May 29, 2008
White Plains, N.Y.

Yours, etc.,

RENDE, RYAN & DOWNES, LLP.

By: *Roland Koke*
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